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U.S. District Court
District of Minnesota (DMN)
CIVIL DOCKET FOR CASE #: 0:03-cv-01180-JMR-FLN
Internal Use Only

Davenport, et al v. Farmers Ins Group, et al
Assigned to: Chief Judge James M Rosenbaum
Referred to: Magistrate Judge Franklin L Noel
Demand: \$0
Cause: 28:1331 Fed. Question: Insurance Contract

Date Filed: 02/21/2003
Jury Demand: Plaintiff
Nature of Suit: 110 Insurance
Jurisdiction: Diversity

Plaintiff**Charles Davenport**

represented by **Alan Himmelfarb**
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A true copy in 11 sheet(s)
of the record in my custody.
CERTIFIED, 6/28/06
Richard D. Stetten, Clerk
BY: [Signature]
Deputy Clerk

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Plaintiff**Brent Johnson**

*individually and on behalf of all others
similarly situated*

represented by **Alan Himmelfarb**

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Scott A Kamber
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V.

Defendant

Farmers Insurance Group
TERMINATED: 10/24/2005

represented by **Christopher R Morris**
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Defendant

Illinois Farmers Insurance Company

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Lewis A Remele, Jr
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LEAD ATTORNEY

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Michael A Klutho

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Defendant

Paul Peterson

TERMINATED: 10/24/2005

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Michael A Klutho

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LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Defendant

Does

1 through 50

TERMINATED: 10/24/2005

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(See above for address)

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ATTORNEY TO BE NOTICED

Lewis A Remele, Jr

(See above for address)

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Michael A Klutho

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Defendant

Farmers Group, Inc.

represented by **Christopher R Morris**

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LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Lewis A Remele, Jr

(See above for address)

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/21/2003	<u>1</u>	NOTICE OF REMOVAL from Dakota County District Court: along with summons and complaint; Assigned to Judge Donovan W. Frank per master list and referred to Magistrate Judge Janie S. Mayeron. Receipt 141845. 22 pg(s) (VEM) (Entered: 02/26/2003)
02/21/2003	<u>2</u>	AFFIDAVIT of Christopher R. Morris regarding removal complaint [1-1] 2 pg(s) (VEM) (Entered: 02/26/2003)
02/21/2003	<u>3</u>	RULE 7.1 DISCLOSURE STATEMENT by Farmers Ins Group is not a legal entity. IL Farmers Ins Co is 100% owned by Farmers Insurance Exchange. 1pg(s) (VEM) (Entered: 02/26/2003)
02/21/2003		NOTICE SENT to out of state attorney: Kevin Prongay & Jon W. Borderud (VEM) (Entered: 02/26/2003)
02/28/2003	<u>4</u>	NOTICE OF PRETRIAL CONFERENCE (Magistrate Judge Janie S. Mayeron / 2/27/03) pretrial conference set for 9:30 a.m. on 3/31/03 6pg(s) (cc: all counsel) (DFL) (Entered: 03/04/2003)
03/04/2003	<u>5</u>	LETTER RE: SVC OF DISPOSITIVE MOTION PAPERS by defendant to dismiss. SVC LTR. (to Judge Donovan W. Frank) 2pg(s) (RJL) (Entered: 03/07/2003)
03/04/2003	<u>9</u>	MOTION by defendants to dismiss (was to Judge Donovan W. Frank - now before Senior Judge Paul A. Magnuson) ret. 5/30/03 at 9:00 a.m. 3 pg(s) (VEM) Modified on 07/16/2003 (Entered: 05/06/2003)
04/03/2003	<u>6</u>	PRETRIAL SCHEDULING ORDER (Magistrate Judge Janie S. Mayeron / 4/2/03) ; amd complaint set for 11/1/03 ; discovery set for 9/1/04 ; non-dispositive motions set for 9/6/04 ; dispositive motions set for 11/1/04 ; ready for jury trial set for 11/1/04. (3 pgs) (cc: counsel) (MKC) (Entered: 04/08/2003)
04/08/2003	<u>7</u>	PETITION AND ORDER for admission pro hac vice (Clerk Richard D. Sletten) on behalf of plaintiff by Alan Himmelfarb. 2pg(s) (cc: all counsel) (RJL) (Entered: 04/10/2003)
04/25/2003	<u>8</u>	PETITION AND ORDER for admission pro hac vice (Clerk Richard D. Sletten) on behalf of plaintiff by Jon. W. Borderud. 1 pg(s) (cc: all counsel) (VEM) (Entered: 05/01/2003)
04/30/2003		Docket Modification (Utility Event) [5-1] letter motion to dismiss. SVC LTR. (to Judge Donovan W. Frank) (VEM) (Entered: 05/05/2003)
04/30/2003	<u>10</u>	MEMORANDUM by defendant in support of motion to dismiss. [9-1] 13 pg(s) (VEM) (Entered: 05/06/2003)

04/30/2003	<u>11</u>	AFFIDAVIT of Christopher R. Morris regarding motion to dismiss. [9-1] 18 pg(s) (VEM) (Entered: 05/06/2003)
04/30/2003	<u>12</u>	MEMORANDUM by plaintiff in opposition to motion to dismiss. [9-1] 36 pg(s) (VEM) (Entered: 05/06/2003)
04/30/2003	<u>13</u>	AFFIDAVIT of Robert K. Shelquist regarding motion to dismiss. [9-1] 2+pg(s) (VEM) (Entered: 05/06/2003)
04/30/2003	<u>14</u>	REPLY by defendant to motion to dismiss. [9-1] 28 pg(s) (VEM) (Entered: 05/06/2003)
05/28/2003	<u>15</u>	ORDER OF DISQUALIFICATION(Judge Donovan W. Frank / 5/28/03) Case reassigned to Judge Michael J. Davis per master list. (3 pg(s) (cc: all counsel) (MKC) (Entered: 05/30/2003)
07/09/2003	<u>16</u>	PETITION AND ORDER for admission pro hac vice (Clerk Richard D. Sletten) on behalf of plaintiffs by Scott A Kamber. 2pg(s) (cc: all counsel) ((Entered: 07/15/2003)
07/09/2003	<u>17</u>	ORDER of Disqualification and Direction to the Clerk of Court for Reassignment of Case (Judge Michael J. Davis / 7/8/03) { referring to Senior Judge Paul A. Magnuson motion to dismiss (to Judge Donovan W. Frank) [9-1] FILERS"as to ,n,pty,all" the motion to dismiss (to Judge Donovan W. Frank) [9-1] } Case reassigned to Senior Judge Paul A. Magnuson ; case remains referred to Magistrate Judge Janie S. Mayeron; NEW CASE NUMBER 03-1180 PAM/JSM 1pg(s) (cc: all counsel) (SJH) (Entered: 07/16/2003)
07/23/2003	<u>18</u>	NOTICE by defendants setting hearing for motion to dismiss (was to Judge Donovan W. Frank - now before Senior Judge Paul A. Magnuson) [9-1] at 10:00 a.m. on 8/7/03. 3 pg(s) (JMM) (Entered: 07/25/2003)
07/30/2003	<u>19</u>	CERTIFICATE (Senior Judge Paul A. Magnuson / 7/30/03) that in this case, there is drawn into question the constitutionality of the Minnesota Fair Insurance Information Reporting Act, Minn. Stat 72A.49 et seq., a statute affecting the public interest. 1pg(s) (cc: all counsel) (DFL) (Entered: 08/07/2003)
08/07/2003	<u>20</u>	MINUTES:(Senior Judge Paul A. Magnuson / Lori Case) hearing re: defts' motion to dismiss . Taken under advisement. [9-1] (1 pg) (MKC) (Entered: 08/14/2003)
08/12/2003	<u>21</u>	MEMORANDUM, OPINION, AND ORDER: (Senior Judge Paul A. Magnuson / 8/12/03) that defendant's motion to dismiss is GRANTED and the Complaint is DISMISSED WITH PREJUDICE. [9-1] (10 pgs) (cc: all counsel) (MKC) (Entered: 08/14/2003)
08/12/2003	<u>22</u>	JUDGMENT: pg(s) (cc: all counsel) (MKC) (Entered: 08/14/2003)
08/12/2003		Terminates Case (Utility Event) (DFL) (Entered: 08/21/2003)

09/10/2003	<u>23</u>	NOTICE OF APPEAL to 8th Circuit Court of Appeals by plaintiffs Charles Davenport and Brent Johnson from Senior Judge Paul A. Magnuson's order and judgment dated 8/12/03. [22-1], [21-2] (JMM) (Entered: 09/12/2003)
09/10/2003		DELIVERED/MAILED TWO CERTIFIED and one uncertified copy of each of the following to the Court of Appeals, St. Paul Office: Notice of Appeal, Order, Judgment and District Court Clerk's Docket Entries. Copy of Notice of Appeal mailed to counsel. (JMM) (Entered: 09/12/2003)
09/18/2003		NOTIFICATION BY CIRCUIT COURT of Appellate Docket Number 3-3307. (MKC) (Entered: 09/22/2003)
10/29/2003	24	TRANSCRIPT OF Motions held 8/7/03 by Senior Judge Paul A. Magnuson (Lori Case). 41 pg(s) (SEPARATE) (JMM) (Entered: 11/05/2003)
05/16/2004	● <u>25</u>	Letter to the Court of Appeals 8th Circuit re: transmittal of original file to court of Appeals. (MKC) (Entered: 05/16/2004)
08/12/2004	● <u>26</u>	DOCUMENT FILED IN ERROR-WRONG DOCUMENT ATTACHED. STIPULATION to <i>Extend the Time to Answer</i> by Charles Davenport, Does, Farmers Insurance Group, Illinois Farmers Insurance Company, Brent Johnson, Paul Peterson. (Morris, Christopher) Modified on 8/12/2004 (GML). (Entered: 08/12/2004)
08/12/2004	● <u>27</u>	STIPULATION to <i>Extend the Time to Answer</i> by Charles Davenport, Does, Farmers Insurance Group, Illinois Farmers Insurance Company, Brent Johnson, Paul Peterson. (Morris, Christopher) (Entered: 08/12/2004)
08/16/2004	● <u>28</u>	ORDER GRANTING re <u>27</u> Stipulation filed by Farmers Insurance Group, Illinois Farmers Insurance Company, Does, Brent Johnson, Paul Peterson, Charles Davenport. Signed by Magistrate Judge Janie S Mayeron on 8/16/04. (RJL) (Entered: 08/17/2004)
08/23/2004	● <u>29</u>	Opinion of USCA as to <u>23</u> Notice of Appeal to 8th Circuit filed by Brent Johnson, Charles Davenport. 8th Circuit Court of Appeals reverse the district court's judgment to the contrary, and remand for proceedings consistent with this opinion. (LJD) (Entered: 08/23/2004)
08/23/2004	● <u>30</u>	USCA JUDGMENT as to <u>23</u> Notice of Appeal to 8th Circuit filed by Brent Johnson, Charles Davenport. It is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in part, reversed in part and remanded to the district court for proceedings consistent with the opinion of this court.(LJD) (Entered: 08/23/2004)
08/24/2004	● <u>31</u>	ORDER OF RECUSAL AND DIRECTION TO THE CLERK OF COURT FOR REASSIGNMENT OF CASE. Judge Paul A Magnuson recused. Case reassigned to Judge James M Rosenbaum and Magistrate Judge Franklin L Noel for all further proceedings per master list. Signed by Judge Paul A Magnuson on 8/24/04. New case number is 03-1180

		JMR/FLN.(MKC) (Entered: 08/24/2004)
08/24/2004		***Case Reopened, ***Set/Clear Flags. (LJD) (Entered: 08/24/2004)
08/30/2004	● <u>32</u>	NOTICE of Hearing: Case Management Conference set for 9/28/2004 at 9:00 AM in Minneapolis - Courtroom 9W before Magistrate Judge Franklin L Noel. (JMM) (Entered: 08/30/2004)
08/31/2004	● <u>33</u>	<i>Defendants' Joint and Separate ANSWER to Complaint of Plaintiffs</i> by Does, Farmers Insurance Group, Illinois Farmers Insurance Company, Paul Peterson. (Attachments: # <u>1</u> Certificate of Service)(Morris, Christopher) (Entered: 08/31/2004)
09/28/2004	● <u>34</u>	Minute Entry for proceedings held before Judge Franklin L Noel : Initial Pretrial Conference held on 9/28/2004. Parties will explore settlement possibilities on or before 12/1/04 and notify the Court on or before 12/15/04 whether an early settlement conference would be useful. (GJS) (Entered: 09/28/2004)
10/01/2004	● <u>35</u>	PRETRIAL SCHEDULE: Amended Pleadings due by 5/1/2005. Discovery due by 3/1/2006. Joinder of Parties due by 5/1/2005. Motions (non-disp) due 3/1/2006. Motions (disp) due by 6/1/2006. Ready for trial due by 7/1/2006. Signed by Magistrate Judge Franklin L Noel on 9/30/2004. (DFL) (Entered: 10/01/2004)
11/09/2004	● <u>36</u>	STIPULATION <i>Regarding Confidentiality</i> by Charles Davenport, Brent Johnson, Farmers Insurance Group, Illinois Farmers Insurance Company, Paul Peterson, Does. (Attachments: # <u>1</u> Certificate of Service)(Morris, Christopher) (Entered: 11/09/2004)
11/15/2004	●	NO DOCUMENT NUMBER GIVEN - WILL RE-FILE. PROTECTIVE ORDER pursuant to stipulation . Signed by Magistrate Judge Franklin L Noel on 11/10/2004. (DFL) Modified TEXT on 11/15/2004 (DFL). (Entered: 11/15/2004)
11/15/2004	● <u>37</u>	PROTECTIVE ORDER pursuant to stipulation filed. Signed by Magistrate Judge Franklin L Noel on 11/10/2004. (DFL) (Entered: 11/15/2004)
11/15/2004		***Set Flag. (DFL) (Entered: 11/15/2004)
11/16/2004	● <u>38</u>	NOTICE of Change of Address for plaintiffs'attorney Scott A. Kamber (Shelquist, Robert) Modified on 11/17/2004 - corrected attorney's name. (MMC) (Entered: 11/16/2004)
11/16/2004	● <u>39</u>	CERTIFICATE OF SERVICE by Charles Davenport, Brent Johnson re <u>38</u> Notice of Change of Address (Shelquist, Robert) (Entered: 11/16/2004)
04/21/2005	● <u>40</u>	STIPULATION <i>to Amend Scheduling Order</i> by Charles Davenport, Brent Johnson. (Shelquist, Robert) (Entered: 04/21/2005)
04/21/2005	● <u>41</u>	CERTIFICATE OF SERVICE by Charles Davenport, Brent Johnson re <u>40</u> Stipulation <i>to Amend Scheduling Order</i> (Shelquist, Robert) (Entered: 04/21/2005)

		04/21/2005)
04/22/2005	● <u>42</u>	AMENDED SCHEDULING ORDER: Amended Pleadings due by 7/1/2005. Discovery due by 5/1/2006. Motions (non-disp) due 5/1/2006. Motions (disp) due by 8/1/2006. Ready for trial due by 9/1/2006. Signed by Magistrate Judge Franklin L Noel on 4/21/05. (GIS) (Entered: 04/22/2005)
06/20/2005	● <u>43</u>	STIPULATION re <u>42</u> Scheduling Order <i>Second Amended</i> by Charles Davenport, Brent Johnson. (Shelquist, Robert) (Entered: 06/20/2005)
06/20/2005	● <u>44</u>	CERTIFICATE OF SERVICE by Charles Davenport, Brent Johnson re <u>43</u> Stipulation <i>Second Amended</i> (Shelquist, Robert) (Entered: 06/20/2005)
06/29/2005	● <u>45</u>	ORDER denying re <u>43</u> Stipulation filed by Brent Johnson and Charles Davenport . Signed by Magistrate Judge Franklin L Noel on 6/29/05. (jam) (Entered: 06/29/2005)
09/12/2005	● <u>46</u>	STIPULATION <i>For Third Amended Scheduling Order</i> by Charles Davenport, Brent Johnson. (Lockridge, Richard) (Entered: 09/12/2005)
09/12/2005	● <u>47</u>	CERTIFICATE OF SERVICE by Charles Davenport, Brent Johnson re <u>46</u> Stipulation <i>for Third Amended Scheduling Order</i> (Lockridge, Richard) (Entered: 09/12/2005)
09/15/2005	● <u>48</u>	THIRD AMENDED SCHEDULING ORDER: Amended Pleadings due by 10/7/2005. Discovery due by 7/31/2006. Motions (disp) due by 8/1/2006. Ready for trial due by 9/1/2006. Signed by Magistrate Judge Franklin L Noel on 9/15/05. (GJS) (Entered: 09/15/2005)
10/07/2005	● <u>49</u>	MOTION to Amend/Correct <i>the Complaint</i> by Charles Davenport, Brent Johnson. (Shelquist, Robert) (Entered: 10/07/2005)
10/07/2005	● <u>50</u>	NOTICE of Hearing on Motion <u>49</u> MOTION to Amend/Correct <i>the Complaint</i> : Motion Hearing set for 10/31/2005 10:30 AM in Minneapolis - Courtroom 9W before Magistrate Judge Franklin L Noel. (Shelquist, Robert) (Entered: 10/07/2005)
10/07/2005	● <u>51</u>	MEMORANDUM in Support re <u>49</u> MOTION to Amend/Correct <i>the Complaint</i> filed by Charles Davenport, Brent Johnson. (Attachments: # <u>1</u> Exhibit Proposed Amended Complaint# <u>2</u> LR7.1 Word Count Compliance Certificate)(Shelquist, Robert) (Entered: 10/07/2005)
10/07/2005	● <u>52</u>	CERTIFICATE OF SERVICE by Charles Davenport, Brent Johnson re <u>49</u> MOTION to Amend/Correct <i>the Complaint</i> , <u>50</u> Notice of Hearing on Motion, <u>51</u> Memorandum in Support of Motion <i>to Serve and File an Amended Complaint</i> (Shelquist, Robert) (Entered: 10/07/2005)
10/18/2005	● <u>53</u>	STIPULATION re <u>49</u> MOTION to Amend/Correct <i>the Complaint</i> by Charles Davenport, Brent Johnson. (Shelquist, Robert) (Entered: 10/18/2005)

10/18/2005	● <u>54</u>	CERTIFICATE OF SERVICE by Charles Davenport, Brent Johnson re <u>53</u> Stipulation to File and Serve Amended Complaint (Shelquist, Robert) (Entered: 10/18/2005)
10/20/2005	● <u>55</u>	ORDER re <u>53</u> Stipulation filed by Brent Johnson and Charles Davenport, Amended Coplaint attached to Plaintiffs' Motion to Amend Complaint, dated 10/7/05, shall be served and filed within ten(10) days of the date of this Order. Signed by Magistrate Judge Franklin L Noel on 10/19/05. (jam) (Entered: 10/20/2005)
10/20/2005		***Motions terminated: <u>49</u> MOTION to Amend/Correct the Complaint filed by Brent Johnson and Charles Davenport. (jam) (Entered: 10/20/2005)
10/24/2005	● <u>56</u>	AMENDED COMPLAINT for Damages, Injunctive and Equitable Relief against Farmers Group, Inc., Illinois Farmers Insurance Company, filed by Charles Davenport, Brent Johnson.(Shelquist, Robert) (Entered: 10/24/2005)
10/24/2005	● <u>57</u>	CERTIFICATE OF SERVICE by Charles Davenport, Brent Johnson re <u>56</u> Amended Complaint for Damages, Injunctive and Equitable Relief (Shelquist, Robert) (Entered: 10/24/2005)
10/24/2005		*** Party Paul Peterson; Does and Farmers Insurance Group terminated. (MKC) (Entered: 10/25/2005)
11/07/2005	● <u>58</u>	Defendants' Joint and Separate ANSWER to Amended Complaint by Illinois Farmers Insurance Company.(Morris, Christopher) (Entered: 11/07/2005)
11/07/2005	● <u>59</u>	CERTIFICATE OF SERVICE by Illinois Farmers Insurance Company re <u>58</u> Answer to Amended Complaint (Morris, Christopher) (Entered: 11/07/2005)
11/07/2005		*** Attorney Christopher R Morris and Lewis A Remele, Jr for Farmers Group, Inc. added. (GJS) (Entered: 11/10/2005)
05/12/2006	● <u>60</u>	MOTION to Certify Class by Charles Davenport, Brent Johnson. (Shelquist, Robert) (Entered: 05/12/2006)
05/12/2006	● <u>61</u>	NOTICE OF HEARING ON MOTION <u>60</u> MOTION to Certify Class: Motion Hearing set for 7/25/2006 09:30 AM in Minneapolis - Courtroom 15E before Chief Judge James M Rosenbaum. (Shelquist, Robert) (Entered: 05/12/2006)
05/12/2006	● <u>62</u>	CERTIFICATE OF SERVICE by Charles Davenport, Brent Johnson re <u>60</u> MOTION to Certify Class, <u>61</u> Notice of Hearing on Motion to Certify Class (Shelquist, Robert) (Entered: 05/12/2006)
06/08/2006	● <u>63</u>	MOTION for Summary Judgment by Farmers Group, Inc., Illinois Farmers Insurance Company. (Morris, Christopher) (Entered: 06/08/2006)

06/08/2006	● <u>64</u>	NOTICE OF MOTION <u>63</u> MOTION for Summary Judgment: (Morris, Christopher) Modified title on 6/9/2006 (gjs). (Entered: 06/08/2006)
06/08/2006	● <u>65</u>	CERTIFICATE OF SERVICE by Farmers Group, Inc., Illinois Farmers Insurance Company re <u>63</u> MOTION for Summary Judgment, <u>64</u> Notice of Hearing on Motion (Morris, Christopher) (Entered: 06/08/2006)
06/09/2006	● <u>66</u>	CERTIFIED COPY OF CONDITIONAL TRANSFER ORDER, transferring this case to the Western District of Oklahoma and assigned to Judge Friot. Signed by Michael J. Beck, Clerk of the MDL Panel. (GJS) (Entered: 06/09/2006)
06/26/2006	● <u>67</u>	TRANSMITTAL LETTER to the Western District of Oklahoma, sending the entire file docs. 1-24 paper copy and 25-66 on disk, Certified copy of docket sheet with copy of letter requesting file from WD Oklahoma. This case is assigned to Judge Stephen P. Friot - MDL 1564. Sent to 200 N.W. 4th Street, Room 1210, Oklahoma City, OK 73102 (GJS) (Entered: 06/26/2006)